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FEDERAL COMMUNICATIONS COMMISSION
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April 6, 2001

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

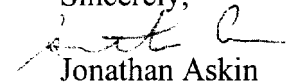
**RE: *Application by Verizon New England Inc., et al., for Authorization To
Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9***

Dear Secretary Salas:

Please include the attached *ex parte* letter, filed on behalf of the Association for Local Telecommunications Services, in the public file of the above-referenced proceeding.

If you have any questions, please contact Jonathan Askin at (202) 969-2587.

Sincerely,



Jonathan Askin

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 6, 2001

Chairman Michael Powell
Commissioner Susan Ness
Commissioner Harold Furtchgott-Roth
Commissioner Gloria Tristani
Federal Communications Commission
445 12th St., S.W. - Portals
Washington, DC 20554

***RE: Application by Verizon New England Inc., et al., for Authorization To
Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9***

Dear Mr. Chairman and Commissioners:

On behalf of the Association for Local Telecommunications Services (ALTS) and its member companies, I write to urge the Commission to reject the pending application of Verizon Communications for authority to offer in-region, interLATA services in Massachusetts. I know you are all aware of the crisis now facing the competitive LEC community. ALTS and its member companies have submitted evidence on the record of this proceeding establishing that Verizon is not in compliance with the section 271 checklist and that its non-compliance has contributed to the failure of several CLECs in Massachusetts. I write to ensure that you are aware of that evidence.

As with Verizon's New York application, DSL issues are at the forefront. That is not surprising, given that both Verizon and its competitors have been scrambling to meet the incredible demand for broadband services. But Verizon is about to be the only entity left to meet consumer demand, and consumers do not benefit when their only provider is the monopoly. As you may recall, there were six DSL providers that opposed Verizon's first Massachusetts application when it was filed six months ago. Today, there is only one - Covad. This is not because Verizon has remedied its failure to comply with the checklist - it is because there are virtually no DSL providers left in Massachusetts. Those DSL providers that sought to compete with Verizon -- Digital Broadband, Votts, HarvardNet, NorthPoint, and Rhythms - have been driven out of the DSL market (and some out of or nearly out of business entirely) by Verizon's failure to comply with its market-opening obligations.

Here are the facts:

Linesharing. Despite a June 6, 2000, deadline for linesharing readiness, Verizon informed state regulators that it did not finish correcting splitter installation problems



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in its central offices until February 15, 2001 – a month after it filed this application.¹ Put simply, Verizon was unable to provide linesharing UNEs to competing providers until after February 15, 2001. Indeed, Verizon's own data for January 2001 reveal that the company only provided 41 linesharing UNEs to all CLECs in the entire month. Despite Verizon's failure to deploy these splitters for competitors, Verizon deployed them at a record pace for itself. Verizon's own figures show that it turns up over 3500 linesharing orders every day for its own retail arm.² Verizon has nothing on the record in this proceeding showing that it can actually provision linesharing UNEs to competitors.

Moreover, Verizon admitted in its application that the linesharing performance data it submitted is inaccurate because it did not account for splitters that Verizon installed incorrectly. DSL providers in Massachusetts had been counting on linesharing to cut costs and speed installation times, but Verizon successfully delayed implementation of linesharing capabilities until after the majority of DSL providers went out of business. And now, Verizon can only promise that in the future it will provide linesharing UNEs to competitors that request them. The Commission has evidence of how Verizon's future performance will be – the New York PSC's Performance Assurance Plan (PAP) shows that Verizon discriminates against competitors month after month, and pays the penalties as a small cost of driving competitors out of business. Sadly, this is equally true for linesharing and for stand-alone loops. Even Massachusetts data shows that competitive LECs suffer upwards of four times as many loop outages as do Verizon's retail customers. In sum, the evidence demonstrates that Verizon provides loops to itself more quickly, and that those loops are of better quality.

OSS. Verizon has stated on the record in this proceeding that it will provide a UNE Remand-compliant pre-order OSS that includes loop makeup information in October 2001. In the interim, Verizon offers to cut and paste loop makeup information and e-mail it to requesting carriers a day after the loop makeup request is submitted. Thus, competitors must wait a day for the ability to tell potential customers whether their loops qualify for DSL. Meanwhile, Verizon enjoys the ability to tell its potential customers instantly in real-time whether their loops qualify for Verizon retail DSL. Verizon is not in compliance with its checklist OSS obligations until it actually provides OSS interfaces that comply with the Commission's rules. A promise to do so in the future is not sufficient. The Commission should take note in particular of its own audit of Verizon's OSS compliance in the Bell Atlantic/GTE merger docket, where Arthur Anderson found that Verizon made loop makeup information available only to itself and not to its competitors.

Competitors have raised other issues, but these two issues highlight Verizon's failure to comply with the core market-opening provisions of the competitive checklist. Verizon

¹ See Letter dated April 6, 2001, from Jason Oxman, Senior Counsel, Covad Communications, to Magalie Roman Salas, Secretary, FCC, CC Docket No. 01-9, at 1.

² See Reply Comments of Covad Communications, CC Docket No. 01-9, at Attachment A.

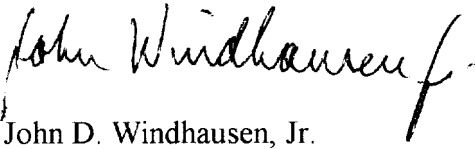


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re-filed this application only three weeks after it withdrew its first Massachusetts application. It is clear from the record that Verizon did not address the substantive problems in its original application; indeed, it could not have fixed those problems in a mere three weeks. Instead, Verizon recast its application with promises of future performance on linesharing, OSS, stand-alone loop, and pricing issues. The Commission has never before accepted promises of future performance as a substitute for checklist compliance. In the New York section 271 decision, the Commission gave Verizon a one-time pass on DSL compliance, stating that DSL issues were "too new" to require Verizon to prove DSL compliance independently. Verizon is now before the Commission asking for yet another free pass.

ALTS and consumers, no doubt, are discouraged by the paucity of competition throughout the Verizon region. Verizon, by turning a blind eye to the law, is winning a war of attrition against competitive local carriers. If the Verizon application is approved, it could send a signal to Verizon and all other RBOCs that they can delay performance long enough to destroy what remains of the DSL sector around the country. I urge you not to lower the bar for checklist compliance below that which can sustain competition.

Respectfully submitted,


John D. Windhausen, Jr.

cc: Chairman Powell
Commissioner Ness
Commissioner Tristani
Commissioner Furchtgott-Roth
Marsha MacBride, Chief of Staff
Kyle Dixon, Legal Advisor to Chairman Powell
Jordan Goldstein, Legal Advisor to Commissioner Ness
Sarah Whitesell, Legal Advisor to Commissioner Tristani
Sam Feder, Legal Advisor to Commissioner Furchtgott-Roth
Dorothy Attwood, Chief, CCB
Glenn Reynolds, Deputy Chief, CCB
Michele Carey, Chief, CCB/Policy
Kathy Farroba, Deputy Chief, CCB/Policy
Brent Olson, Deputy Chief, CCB/Policy
Eric Einhorn, CCB/Policy
Christopher Libertelli, CCB/Policy
Jessica Rosenworcel, CCB/Policy